

FILED

April 14 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 08-0499

FILED

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Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ORDER

DAVID W. GUNDERSON,

Defendant and Appellant.

Pursuant to the Internal Operating Rules of this Court, this cause is classified for oral argument before the Court sitting en banc and is hereby set for argument on Friday, May 14, 2010, at 9:30 a.m. in the Courtroom of the Montana Supreme Court, Justice Building, Helena, Montana.

IT IS FURTHER ORDERED that the oral argument shall be limited to Issue No. 1, that is, whether the District Court erred in sentencing the defendant under the persistent felony offender statute to a term of 100 years for burglary and, consecutively, to a life sentence for attempted sexual intercourse without consent. In this regard, the parties shall address whether this Court should revisit its decision in *State v. Gaither*, 2009 MT 391, ¶¶ 50-55, 353 Mont. 344, 220 P.3d 640.

IT IS FURTHER ORDERED that pursuant to M. R. App. P. 17(3), oral argument times in this cause number shall be twenty (20) minutes for the Appellant and fifteen (15) minutes for the Appellee.

The Clerk is directed to mail copies of this Order to all counsel of record and to the Honorable Gregory R. Todd, District Judge.

DATED this 14th day of April, 2010.

For the Court,

By 

Chief Justice